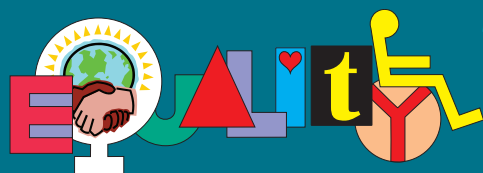


Updated  
2015



# and Family Rights

Parents and carers  
employment rights,  
pay and best practice  
policies at work

# YOUR GUIDE

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# 1. Introduction

*“This guide is for Unite members and shop stewards/workplace representatives. It outlines key rights at work, and suggests how Unite can help workers get and build on their full rights.*

*Families come in all shapes and sizes and regardless of what a family looks like Unite believes that:*

- *No parent or carer should be left to struggle alone*
- *Children must be at the heart of family policy*
- *Family policy should aim to provide a secure, healthy environment for children to grow and develop, as well as to ensure that parents and carers are fully supported in childbirth and in raising children*
- *Equality between men and women should be at the heart of family policy*

*Unite condemns the government cuts which hit families hard, and increase poverty and inequality.*

*Unite continues to campaign at work and in the community for decent pay, social justice, an end to poverty and for fairness for all families.”*

## **Diana Holland**

### **Assistant General Secretary**

#### **Transport – Equalities – Food**

*“Job security and financial security during pregnancy and after child birth is a major concern for many women. Pregnancy discrimination in employment is unlawful; however, despite the legal framework more than 40,000 women lost their jobs last year. Unite members get a better deal as we negotiate better terms for maternity and paternity leave, pensions, and redundancy winning you more than the legal minimum, and Unite is campaigning for a better framework of statutory rights.*

*This guide provides you with an overview of your rights at work, the payments that you are entitled to, where to get help if you need it and examples of best practice Unite has negotiated with employers, which can be negotiated with your employer.”*

## **Siobhan Edean – National Officer for Equalities**

Please remember that the rights contained in this guide are the legal minimum. Check if Unite representatives have negotiated better provisions in your workplace than these minimum legal requirements. To find out more about family rights, confidential advice and representation, please contact your shop steward/workplace representative, Regional Unite Officer and/or Regional Women’s & Equalities Organiser.

The details on social security payments, tax credits, and qualifying earnings are normally changed every April. The information given here is correct for April 2015/16. To check the current rates, please go to [www.gov.uk](http://www.gov.uk) and Unite Equalities [www.unitetheunion.org/unite-at-work/equalities](http://www.unitetheunion.org/unite-at-work/equalities)

## Unite aims for Family Friendly Policies for ALL

- Take immediate steps to reduce the high rates of pregnancy discrimination to enable pregnant women and new parents to retain their jobs and have the confidence to exercise their maternity and parental rights at work
- Increase the flat rate of Statutory Maternity Pay, Statutory Paternity Pay, Maternity Allowance and Statutory Shared Parental Pay to at least equal the National Minimum Wage
- Statutory maternity, paternity, parental leave and pay – a day one right
- The right to flexible working and not just to request it – a day one right
- Return to the same job, pay and grade after returning from maternity or shared parental leave – a day one right
- Increasing the pay for paternity leave and shared parental leave for fathers – a day one right
- Paid time-off to attend antenatal appointments, pre-adoption meetings, appointments for IVF treatment and meetings and appointments for surrogate parents, for both parents/nominated carers – a day one right
- Paid and sufficient parental leave for children under 18 – a day one right
- Maternity Allowance should be treated as earnings from employment, for the purposes of Universal Credit, to ensure similar treatment to Statutory Maternity Pay and other work-related payments
- Assist low to medium income families with the costs of each new baby, by reinstating the Sure Start Maternity Grant for second and subsequent children
- Provide support for low-income women during pregnancy to ensure a healthy diet. Increase Healthy Start payments by 14.5% which is the increase in the cost of food since the benefit was last updated in 2010
- Universal right to free or affordable childcare
- Child benefit, at a decent a level, for all families and for all the children in the family
- Decent rights for carers including paid time-off

Between 2010 and 2015 the Conservative, Liberal Democrat Coalition cut rights and support, and the Conservative government elected in 2015 has pledged to continue with these devastating cuts.

### Cuts suffered 2010-2015 under ConDem Coalition

#### Cuts to tax credits hurts families

- £1m cut to Child Tax Credit and abolishing the 'baby element' and not introducing the Toddler Element
- Cuts to Working Tax Credit making families over £3,000 a year worse off
- Loss of 8.2% of income for working lone parents as result of tax credit cuts
- 10% reduction in the amount of eligible childcare costs paid by tax credits
- Increase in the hours eligibility for couples claiming Working Tax Credit to 24 hours
- Up-rating Child Tax Credit and Working Tax Credit by 1%
- Up-rating the Basic and 30-hour elements of tax credits by 1%

#### Cuts to pregnancy and maternity benefits

- Abolition of the £190 Health in Pregnancy Grant
- Limit to the £500 Sure Start Maternity Grant to first child
- Lack of upgrade for statutory maternity pay

#### Cuts to childcare

- Cuts to Sure Start funding
- Child benefit frozen with further cuts in 2013
- 24.7% cut to nursery and pre-school education

### New rights won 1997-2010 under Labour government

- Rights to maternity leave and pay more than doubled from 18 weeks to 39 weeks and from £55.70 to £124.88 a week
- Paid maternity and adoption leave was extended to 9 months
- For the first time there was a legal right to paid time off for fathers and adoptive parents
- Improvements to the right for parents and carers to request flexible working arrangements, including part-time working
- An extension of the rights to unpaid parental leave
- Optional keeping in touch days (KIT) was introduced
- Additional financial help for families through the tax credit system

## 2. Rights for new parents

### a. New mothers

#### Maternity leave

All pregnant employees<sup>1</sup>, including surrogate mothers, are entitled to 52 weeks' maternity leave made up of 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML), regardless of length of service or number of hours worked and regardless of the size of the employer, bringing the entitlement to one full year. Whether this is paid or not depends on your level of earnings and length of service (see below).

Republic of Ireland – You are entitled to 26 weeks maternity leave together with 16 weeks additional unpaid maternity leave which begins immediately after the end of maternity leave.

#### Notice and timing of leave

You must give your employer notice of your intention to go on maternity leave no later than 15 weeks before the baby is due. You can change the date by giving at least 28 days' notice before the new date or the old date, whichever is the earliest. If this is not reasonably practicable (for example if the baby is born early).

You can start maternity leave at any time after the 11th week before the baby is due, up to the day it is born. You must take at least 2 weeks of the leave (4 weeks for factory workers) after the baby is born. This is known as Compulsory Leave<sup>2</sup>.

Republic of Ireland – You must give your employer at least four weeks' written notice of your intention to take maternity leave and you must also provide your employer with a medical certificate confirming the pregnancy. If you intend to take the additional 16 weeks' maternity leave you must provide your employer with at least four weeks' written notice. Both notices can be given at the same time.

#### Antenatal care

Pregnant women are entitled to reasonable paid time off (at the normal hourly rate) for antenatal care, including any antenatal, parent craft or relaxation classes that a health professional has recommended you attend as well as time needed to travel to your clinic or GP. You may need to show proof of appointment and proof of pregnancy (such as the MATB1) to your employer.

The father or the partner is entitled to unpaid time off work to attend up to two antenatal appointments. The maximum amount of time off work that you can take for each appointment is 6 hours and 30 minutes.

A 'partner' is a spouse, civil partner or someone who lives with and is in a long-term relationship with the pregnant woman. This right extends to intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of that child.

All employees have this right from day one. Agency workers qualify for this right if they have been in the same role for the same hirer for 12 weeks or more.

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<sup>1</sup> England, Wales, Scotland and Northern Ireland.

<sup>2</sup> England, Wales, Scotland and Northern Ireland.

Your employer can ask you for a signed declaration stating:

- the date and time of the appointment
- that you qualify for the right as the expectant father or partner of the pregnant woman
- that the appointment is made on the advice of a doctor, midwife or nurse.

Your employer cannot ask you for the appointment card because this is the property of the pregnant woman.

The right is to time off work to attend an appointment if the pregnant woman wishes you to be there. It is not a right to attend an appointment. Antenatal appointments are about monitoring the health and well-being of the mother and unborn baby and it is up to the pregnant woman to decide who she wants to accompany her to the appointment.

Northern Ireland – Currently, fathers do not have a right to time off for antenatal appointments.

Republic of Ireland – You are entitled to take paid time-off from your employment to attend antenatal appointments (this also includes some antenatal classes).

### **Sickness during pregnancy**

If you are off work sick for pregnancy-related reasons at any time in the 4 weeks before the baby is due, then the employer can count that as the start of maternity leave, although they do not have to do this. All pregnancy related sickness absence must be recorded separately. This is very important at times when management refer to sickness absence for discrimination or redundancy.

### **Union membership**

When you are on maternity/adoption/paternity leave, and on less than half salary or not working, you are entitled to pay reduced union subs. Please contact your union official or branch to arrange this.

### **Key negotiating aims on maternity leave**

- All women employees to be entitled to one year maternity leave on full pay from day one. It may be necessary to negotiate towards this in gradual stages, for example, initially negotiating for all women to get 39 weeks leave on full pay from day one (please refer to “Examples of good practice” section)
- A sympathetic, non-discriminatory, flexible leave and sickness absence for parents who lose their baby/partner and have a premature or sick baby
- Workers on temporary and fixed term contracts to be entitled to all the benefits negotiated
- The employer should undertake to provide adequate cover during leave.

## Maternity pay

You can claim Statutory Maternity Pay (SMP)<sup>3</sup> any time from the beginning of maternity leave, for a maximum of 39 weeks. It is paid by the employer through the normal pay procedures. The amounts (as at April 2015/2016) are as follows:

- For the first 6 weeks – 90% of average pay (calculated on gross earnings in the 8 weeks or two months before the end of the 15th week before the baby is due, reflecting any increases)
- After 6 weeks – basic rate of £139.58pw (from April 2015, previously £138.18pw) for a further 33 weeks (or 90% of salary if that is less)

To **be eligible**, you must:

- have worked for the same employer continuously for 26 weeks by the 15th week before the week the baby is due
- earn on average at least £112pw, before tax, (from April 2015, previously £111pw) which is the lower earnings limit for National Insurance payments in the 8 weeks prior to the 15th week before the baby is due; and
- have given your employer the correct evidence and notice

For more information please refer to the Premature Births and Stillbirth/miscarriage/termination sections.

Republic of Ireland – Maternity benefit is paid to women who are on maternity leave from work and covered by social insurance (PRSI). The benefit has been taxable since the 1st July 2013 for all Claimants. If you are employed you must have at least 39 weeks PRSI paid in the 12 month period before the first day of your maternity leave. If you are self-employed you must be in insurable employment and have 52 weeks PRSI contributions paid at Class S in the relevant tax year.

## Extra maternity benefit from the union

If you have been paying the Enhanced rate, the slightly higher level of subs, then you are entitled to receive maternity/adoption/paternity benefit of £12.80pw (2014) from the union for up to 10 weeks of your maternity/adoption/paternity leave.

## Maternity allowance

If you do not qualify for SMP you may be able to claim Maternity Allowance (MA) from the local Jobcentre Plus or your employer.

The amount of MA paid depends upon eligibility and you can claim this as soon as you have been pregnant for 26 weeks and payments can start 11 weeks before the baby is due. The latest you can apply is three months after the date you stop work as MA can only be backdated for a maximum of three months.

You can either receive MA for:

- **39 weeks** at £139.58pw<sup>4</sup> (from April 2015, previously £138.18pw) (or 90% of average earnings if that is lower) if you have been employed or self-employed for 26 weeks out of the 66 weeks before the baby is due, and earned on average at least £30pw. The 26 weeks do not have to be continuous or with the same employer.

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<sup>3</sup> England, Wales, Scotland and Northern Ireland.

<sup>4</sup> Northern Ireland – There is no cap on 90% of average weekly earnings for the first 6 weeks.



OR

- **14 weeks** at £27pw if for at least 26 weeks in the 66 weeks before your baby is due you are the spouse or civil partner of a self-employed person or help in their business.

If you are employed, you will need to ask your employer for form SMP1 (explaining why you do not qualify for SMP). You should also give your employer notice to start your maternity leave by the 15th week before your baby is due.

Maternity Allowance won't affect your tax credits but it will affect some other benefits you might be receiving.

## Premature birth

**Maternity leave and Pay** – If your baby is born after your Maternity Pay Period (MPP) has started your Statutory Maternity Pay (SMP) will not be affected. You can still get SMP for the full payment period as if the baby had been born when it was due.

If your baby is born before your MPP has started but after the qualifying week you must, if reasonably practicable, tell your employer of the birth within 21 days. Your SMP, if you qualify, will now start on the day after the birth and will last for up to 39 weeks.

If your baby is born before or during the qualifying week then within 21 days of the birth, you must give written evidence that you were away from work because of your baby's birth e.g. birth certificate. You must also still provide your employer with medical evidence of the date the baby was due to be born. They can be provided together on part B of the maternity certificate (form MATB1) issued by your doctor or midwife. Your employer may agree to extend the 21 days to 13 weeks.

You qualify for SMP if you would have been continuously employed for 26 weeks by the 15th week before the week the baby is due had it not been for the baby's early birth and satisfy the earning rule for SMP. The period over which the earnings rule is applied and your average weekly earnings are calculated will be the 8 weeks that end with the Saturday before the birth of your baby.

If you would qualify for Maternity Allowance and your baby is born after your Maternity Allowance Period (MAP) or 14 week period has started, nothing will change.

If your baby is born before your MAP or 14 week period was due to start, your MAP or 14 week period will start from the day after the birth.

**Statutory Paternity Pay** – If your baby is born early you must tell your employer of the date the baby was due and the actual date of birth and by completing the form SC3, as soon as possible. You also must tell your employer when you want to take your Ordinary Paternity Leave and Ordinary Statutory Paternity Pay (OSPP) and whether you will take in 1 or 2 consecutive weeks. You can take your leave any time between the actual date of birth and the end of an 8 week period running from the Sunday of the week the baby was originally due.

The normal rules for Additional Statutory Paternity Pay apply.

## Late births

If your baby is born later than the week in which it was due, your MAP or 14 week period will not change if it has already started. If you continue to work beyond the date your baby is due and you give birth, your MAP or 14 week period will start the day following the day your baby was born.

If your baby is born later than the week in which it was due, and after your MPP had started, your SMP is not affected. Your MPP remains the same. However, if you are incapable of work when your MPP ends, you may be able to get Statutory Sick Pay from your employer or Employment and Support Allowance from Jobcentre Plus.

## Stillbirth/miscarriage/termination

After the 24th week of pregnancy, rights to leave and SMP are the same as if the baby had been born alive. If it occurs before the 24th week you will not be entitled to maternity leave or pay.

You should take sick leave for as long as your GP signs you off sick. Sick leave for a miscarriage may be protected in the same way as sick leave for a pregnancy related illness, if so you are not limited in how much you can take and it must be recorded as such and does not count towards your sickness record. Even if it is not protected in the same way, employers have to treat you fairly without sex discrimination and case law suggests that it is unlawful to dismiss someone for an absence directly caused by miscarriage.

If you have a stillbirth, or if your baby is born alive but later dies, even after a few seconds, rights to leave and SMP remains. If you are entitled to MA, but have not yet claimed it, you should claim it as soon as you can. If you have claimed MA but are not yet receiving it you must let Jobcentre Plus know.

If you are already on maternity leave you do not have to take any action, but if the birth happens before you intended to start maternity leave, or before you gave notice of maternity leave to your employer, your maternity leave will start the day after the birth and you will need to inform your employer as soon as you can. You are entitled to Child Tax Credit and Child benefit, if you meet the other conditions, for the period from the birth until eight weeks after the baby's death. You may be entitled to some Working Tax Credit, or you may be able to claim Income Support for 15 weeks after your pregnancy ends, if you meet the other conditions.

If you return to work within 6 months of the birth then you are entitled to the same health and safety rights as other women who have given birth within the last six months.

Fathers or partners will also still be entitled to take Paternity Leave. This leave must be completed within 56 days of the birth. However, if the baby was born early the leave must be completed within the period from the actual date of birth to 56 days after the expected week of birth.

You can still make a claim for Child tax credits within 3 months of the birth. If you are already getting tax credits, you continue to receive it for up to 8 weeks following the death.

## Means tested benefits

If you have not paid enough NI contributions or earned enough to be eligible for either SMP or Maternity Allowance, you may be able to claim means tested benefits from the local Jobcentre Plus.

## Sure Start maternity grant

This is a lump-sum payment to new or expectant parents, worth £500 for a new baby. You can claim anytime up to 11 weeks before the due date or three months after giving birth or adopting a baby.

To **qualify**, this must be your first child and you must get one of these benefits:

- Income Support
- income-based Jobseeker's Allowance
- income-related Employment and Support Allowance
- Pension Credit
- Child Tax Credit at a rate higher than the family element
- Working Tax Credit that includes a disability or severe disability element
- Universal Credit

If you already have children under 16, you can only get a grant if you're expecting a multiple birth.

You may also be able to get a grant if you're adopting or becoming a surrogate parent.

You will be entitled to the grant if you meet the other conditions and you have a stillbirth after the end of the 24th week of your pregnancy, or if the baby dies very soon after birth.

## Child Benefit

This is a tax free benefit to help parents with the costs of child(ren) rearing. You will receive this for every child from birth until they are at least 16 years old. Child Benefit is paid to the person/people responsible for a child. The Bounty Pack given to new parents in hospital includes a Child Benefit claim pack or you can get it by calling the Child Benefit helpline on 0300 200 3100. You must claim Child Benefit within three months of your baby's birth or you could lose out on some benefit.

## Healthy Start scheme

If you're pregnant or have a child under 4, the Healthy Start scheme can help you buy basic foods like milk or fruit. If you qualify you'll be sent one voucher worth £3.10 (2015) each week (2 vouchers per week if you have a child under 1). You can also get coupons to swap for vitamins for yourself and your child.

For more information please ask your midwife or health visitor.

## NHS prescriptions and dental care

You are entitled to free prescriptions and dental care including check-ups and treatments during pregnancy and for 12 months after giving birth. Your child is also entitled to this until they are at least 16 years old. Please ask your doctor or midwife for more information.

### Key negotiating aims on maternity pay

- Increase the amount of maternity pay towards 100% of pay. For the first 6 weeks this only means an additional cost to the employer of 10% of salary, as 90% is reimbursed by the government (for small employers this is 103%). For the next weeks, the government reimburses SMP
- Increase the amount of weeks' leave covered by maternity pay – start by arguing for a percentage of average pay or flat rate
- No obligation to pay back contractual maternity pay if the employee does not return to work. If this is currently not the case, check the sick pay policy, and if it is more generous this could be used to argue for a change in rules on maternity pay
- If the employer tops up Statutory Sick Pay more than they top up maternity pay, negotiators could argue that maternity pay ought to be at least as much as SSP
- Ensure that pay reaches the threshold at which national insurance starts, or members' benefit and pension positions may suffer

## Rights during maternity leave

Whilst a woman is pregnant or on maternity leave she is **protected from dismissal or other unfavourable treatment** regardless of hours worked or length of service, and whether she is on a permanent or a temporary contract. If you are dismissed, or selected for redundancy, (or also if you are turned down for a job you have applied for) for a pregnancy and childbirth-related reason this will automatically count as unfair and as sex discrimination.

During **Ordinary Maternity Leave**, all contractual rights (except pay) must be maintained and accrued, for example pension rights, holiday entitlement, job opportunities that become available, company car, travel passes, mobile phone (unless these are solely for business use) and any other perks such as gym membership etc. When calculating the SMP, employers should take into account any pay increase between the beginning of the 15th week before the woman's due date and the end of the maternity leave period.

For women on **Additional Maternity Leave**, your contract also continues during this additional period, but you have no automatic rights to most contractual benefits (aside from statutory rights e.g. redundancy) in this time.

If a **redundancy**<sup>6</sup> situation arises whilst you are on ordinary or additional maternity leave, you are entitled to be offered a suitable alternative vacancy (if one exists), on terms and conditions that are at least as favourable as before. Please contact your Officer for advice.

If the employer goes out of business whilst you are on maternity leave, you can claim SMP and redundancy from the government (and should contact your union official regarding this). If the employer changes whilst you are on leave, SMP remains the responsibility of the original employer.

### Sickness after maternity leave

If you are sick when your maternity leave ends then your employer's normal sickness procedures applies. Any period of sickness absence starts from the date you would have returned to work. If you are off sick for a long time and there is a potential case of dismissal then your pregnancy related absences (including pregnancy related illness) should be ignored and you should not be treated less favourably. Please contact your Officer about this.

#### Key negotiating aims on rights during maternity leave

- All women taking their maternity leave entitlement (OML or AML) to have the right to return to the same job, at the same hours if they wish
- The employer should ensure that clear and accessible information is made available to parents regarding their rights and obligations. They should also ensure that they keep parents on leave informed as to any important developments in the workplace including any vacancies that arise (which they should be allowed to take up on their return, if successful in applying)
- In special circumstances, for example multiple births or problems concerning the health of the child (including fertility treatment, miscarriages and terminations), disabled child and postnatal depression an extension to the leave period may be granted, without the employee needing to use up their sick leave. Of course all such situations must be treated confidentially by the employer
- All contractual benefits, particularly holiday and pension accrual, to be maintained and accrued during Additional Maternity Leave as well

### Returning to work

Women on **ordinary maternity leave** have the right to return to the same job, on the same terms and conditions, after the 26 weeks leave regardless of the size of the employer.

Women on **additional maternity leave** have the right to return to the same job, unless it is not reasonably practicable, in which case you have the right to return to a similar job on terms and conditions that are at least as favourable as if you had been at work.

<sup>6</sup> Section 10 – Maternity and Parental Leave etc. Regulations 1999. Republic of Ireland – Section 27 of the Maternity Protection Act 1994.

If you decide **not to go back to work** after the birth of the baby, this does not affect your right to SMP or MA, since you qualified for this before you went on leave. If you are undecided you should keep your options open. If you decide not to return at the end of maternity leave, you only need to give the notice as required in your contract as if you were resigning.

If you want to return to work on a part-time basis or with **different hours** or working arrangements, your employer has a legal duty to consider your request seriously – see ‘Flexible Working’ section.

You also have the right to **optional** Keeping in Touch (KIT) Days. These are designed to ease women back into work if they wish. It enables a woman to work for up to 10 days by mutual agreement during her maternity/adoption leave period without losing a week’s Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP). KIT days can be worked at any time during the leave period, except the first two weeks after childbirth. You and your employer can agree on the days you wish to work.

You must be paid for KIT days, but the level of pay needs to be agreed by you and your employer. This pay should not be less than the SMP/SAP rate. If you want to stay off work after your OML or AML you will lose your right to return to work, unless your contract says otherwise. For more advice please contact your shop steward/workplace representative and refer to “Key negotiation aims on returning to work”.

## Notice

The employer is responsible for notifying you of your expected return date, rather than the other way round. You only have to notify your employer if you intend to return to work **before the end of your full maternity leave entitlement**, whether that is 26 or 52 weeks. In this situation you must give 56 days’ notice of the date you intend to return to work.

### Key negotiating aims on returning to work

- Rights to flexible working if women want to return on reduced hours, part-time or job share basis. Also a right to return to the original contract after an agreed period of flexible working
- Commitment to refresher training where necessary (particularly after extended leave). This should not be assessed and should be in agreement with the worker
- Paid time off for post-natal clinics or parenting classes
- Some larger companies allow unpaid childcare career breaks of up to 5 years
- A guarantee that Keeping in Touch (KIT) days will be paid – a full day’s pay for working a full KIT day
- A guarantee that no pressure will be placed on the women to come in for KIT days
- Agree with the employer the nature of the work that can be undertaken during KIT days

## Shared Parental Leave (SPL)<sup>7</sup>

Shared parental leave and pay is available to parents who qualify, if your baby was due or you adopted a child on or after 5 April 2015 (until 4 April 2015 fathers may get Additional Paternity Leave instead).

<sup>7</sup> England, Wales, Scotland and Northern Ireland.

SPL is available to eligible parents who have a baby or who adopt a child. SPL means that the mother can choose to share her maternity or adoption leave and pay with her partner if the partner is also eligible for SPL. You can choose how much of the leave each of you will take and you can suggest a flexible pattern of leave to your employer, although they do not have to agree flexibility.

SPL must be taken within the baby's first year (or within 1 year of adoption). A maximum of 50 weeks leave can be shared between parents from 2 weeks post birth (4 weeks for factory workers) 39 weeks of which are paid (37 weeks of the statutory shared parental pay and 2 weeks of statutory maternity pay). If you opt for SPL then maternity rights are curtailed meaning that you or your partner end maternity or adoption leave or pay (or Maternity Allowance) early. There is no extra entitlement for multiple births.

Your terms and conditions of employment are protected during SPL and you have the same redundancy rights as others in the workplace.

### Notice period

You must give at least 8 weeks' notice of any SPL you wish to take. If the child is born more than 8 weeks early, this notice period can be shorter.

You can book SPL in up to 3 separate blocks instead of taking it all in one go, even if you aren't sharing the leave with your partner. Your employer can agree to more blocks of leave. Your employer can also let you split each block into several shorter periods of work and leave.

If your partner is eligible for SPL, you can take leave at different times – or both at the same time.

You must give your employer at least 8 weeks' notice before you want to begin a block of leave. You can amend the agreed leave pattern with notice.

If either parent dies and the other parent is taking, or is entitled to SPL then they will continue to be eligible. Any SPL that was due to be taken by the deceased parent may be transferred to the other parent if the other parent is eligible for SPL.

Should it be necessary for the other parent to take a further period of SPL or to vary pre-agreed leave then notice may be given as soon as is reasonably practicable if eight weeks' notice cannot be given. If they have already given three notices to take leave they must be allowed to submit one further notice to book/amend SPL.

It is good practice for your employer to confirm they have received and accept your notifications.

To be **eligible** you must share care of the child with:

- your husband, wife, civil partner or joint adopter
- the child's other parent
- your partner (if they live with you and the child)
- AND you must:
- have been employed continuously for at least 26 weeks by the end of the 15th week before the due date (or by the date you are matched with your adopted child)
- be employed by the same employer while you take SPL

For your partner to be eligible they must, during the 66 weeks before the baby is due:

- have been working for at least 26 weeks (they don't need to be consecutive)
- have earned at least £30pw on average in 13 of the 66 weeks

They can be employed, self-employed or an agency worker.

## Starting Shared Parental Leave

You or your partner can only start SPL once the child has been born or adopted. The mother or adopter must have either:

- ended any maternity or adoption leave by returning to work
- given 'binding notice' (a decision that can't normally be changed) to their employer of the date when they plan to end any maternity or adoption leave
- ended maternity pay or Maternity Allowance

The mother or adopter must give notice to their employer (at least 8 weeks) to end maternity or adoption pay, or to Jobcentre Plus to end Maternity Allowance.

You can start SPL while your partner is still on maternity or adoption leave as long as they've given binding notice to end it.

## What you must do

You must give your employer written notice of your entitlement to SPL, including:

- your partner's name
- start and end dates for maternity or adoption leave
- the total amount of SPL available and how much you and your partner intend to take
- confirmation that you're sharing childcare responsibility with your partner

You must also include a signed declaration from your partner stating:

- their name, address and National Insurance number
- that they satisfy the qualifying requirements for SPL
- that they agree to you taking SPL

Your employer has 14 days if they want to ask for:

- a copy of the child's birth certificate
- the name and address of your partner's employer

You must provide this information within 14 days.

## Cancelling the decision to end maternity or adoption leave

The mother or adopter may be able to change their decision to end maternity or adoption leave early if both:

- the planned end date hasn't passed
- they haven't already returned to work

One of the following must also apply:

- you find out during the 8-week notice period that neither of you is eligible for SPL or Statutory Shared Parental Pay
- the mother or adopter's partner has died
- the mother tells her employer less than 6 weeks after the birth (and she gave notice before the birth)

## Statutory Shared Parental Pay (ShPP)

ShPP is available to parents who qualify, if your baby was due or you adopted a child on or after 5 April 2015 (until 4 April 2015 fathers may get Additional Paternity Leave instead)

ShPP must be taken within the baby's first year (or within 1 year of adoption). If the mother or adopter curtails their entitlement to maternity/adoption pay or maternity allowance before they have used their full entitlement then Shpp can be claimed for any remaining weeks. The amounts are £139.58pw (from April 2015) or 90% of your average weekly earnings, whichever is lower.

To **be eligible** a parent must:

- have worked for your employer under a contract of employment for at least 26 weeks by the 15th week before the expected week of childbirth or the 'matching week' in case of adoption
- have earned an average salary of the lower earnings limit of £112 for the 8 weeks' prior to the 15th week before the expected due date or matching date
- The other parent in the family must meet the employment and earnings test

You will also qualify for ShPP if either:

- you qualify for Statutory Maternity Pay or Statutory Adoption Pay
- you qualify for Statutory Paternity Pay

AND

- have a partner who qualifies for Statutory Maternity Pay or Maternity Allowance or Statutory Adoption Pay

## What you must do

You must give your employer written notice of your entitlement to ShPP, including:

- your partner's name
- start and end dates for maternity or adoption leave and pay
- the total amount of ShPP available and how much you and your partner intend to take
- confirmation that you're sharing childcare responsibility with your partner

You must also include a signed declaration from your partner stating:

- their name, address and National Insurance number
- that they satisfy the qualifying requirements for ShPP
- that they agree to you taking ShPP

Your employer has 14 days if they want to ask for:

- a copy of the child's birth certificate
- the name and address of your partner's employer

You must provide this information within 14 days.

## Returning to work after Shared Parental Leave

You are entitled to return to the same job if your combined leave period (comprising of maternity/paternity/adoption and shared parental leave) totalled 26 weeks or less.



If the leave is more than 26 weeks, or is the last of 2 or more consecutive periods of statutory leave including a period of unpaid parental leave exceeding four weeks (i.e. more than 26 weeks leave or have more than 1 period of leave), you have the right to return to the same job unless it is not reasonably practicable, in which case you should be offered a suitable and appropriate job on terms and conditions that are no less favourable.

### **Shared parental leave in touch (SPLIT) days**

You and your partner can both work up to 20 days during SPL. These are called 'shared parental leave in touch' (or SPLIT) days.

These days are in addition to the 10 'keeping in touch' (or KIT) days already available to those on maternity or adoption leave.

Republic of Ireland – Parents can take parental leave from employment in respect of certain children. On the 8th March 2013 the European Union (Parental Leave) Regulations 2013 increased the amount of parental leave available to each parent per child from 14 weeks to 18 weeks. Additional rights are presently under consideration in the new Family Law Bill which will cover carer's leave, parental leave, maternity leave and adoption leave.

This Legislation has not been passed at the time of publication.

### **Key negotiating aims on shared parental leave and pay**

- All contractual maternity leave, pay and benefits to be maintained unless it is going to be enhanced
- Match contractually enhanced pay and benefits during SPL (please refer to "Key negotiating aims on maternity pay"). This is particularly of low cost for organisations employing large numbers of women
- Make ALL fathers'/partners' leave a day one right
- The employer should actively promote SPL to fathers in their workforce

### **Health & safety**

Regulations<sup>8</sup> state that employers must carry out risk assessments and keep employees informed of the outcome. If any women of childbearing age are employed, this must specifically aim to eliminate hazards to pregnant women and their unborn child, women who have recently given birth (within the last 6 months, and including situations where the woman has miscarried or had a stillborn baby after the 24th week) and breastfeeding mothers (regardless of whether any employees are in this situation at the time). Examples of hazards may include:

- Lifting heavy loads
- Working in confined spaces
- Working at unsuitable workstations
- Working in extreme temperatures
- Exposure to shocks or vibration
- Working in stressful or violent conditions
- Working with lead and other toxic substances including radioactivity

<sup>8</sup> Management of Health and Safety at Work Regulations 1999.

If the hazards are unavoidable in your current job, your employer must offer you suitable temporary alternative work/shift on terms and conditions no less favourable than your current one. If there is no suitable alternative work, you must receive full pay and contractual rights, while suspended on medical grounds. Employers also have a duty<sup>9</sup> to provide suitable rest facilities for pregnant women and nursing mothers, ideally including a place to lie down and near toilet facilities.

Please also refer to factsheet on pregnancy and health and safety.

### Key negotiating aims on pregnancy and health and safety

- Policy to make explicit that pregnancy is not to be equated with sickness
- Facilities for breastfeeding mothers to safely express and store milk

## b. New fathers & partners of new mothers

### Ordinary paternity leave or maternity support leave

New fathers are entitled to up to 2 weeks (consecutive or one week at a time) paternity leave during the 8 weeks following the birth. This is known as **ordinary paternity leave (OPL)**. This also applies to couples who adopt – whichever parent has taken maternity leave, the other will be entitled to paternity leave, regardless of gender. This leave will be paid at a rate of £139.58pw (from April 2015, previously £138.18pw) (or 90% of average weekly earnings if that is less) providing they earn at least £112pw (from April 2015, previously £111pw)<sup>10</sup>.

There is only one period of leave available even for multiple births.

**Please Note** – Additional Paternity Leave and Pay will no longer be available for babies due after 5 April 2015.

The same protections from dismissal or unfavourable treatment apply to paternity leave as to maternity leave.

To **be eligible**, you must:

- expect to share responsibility for the child's upbringing with the mother – i.e. be the mother's partner (male or female), not necessarily the biological father
- have worked for your employer under a contract of employment for at least 26 weeks by the 15th week before the expected week of childbirth or the 'matching week' in case of adoption
- give notice by the 15th week before the due date or the 'matching week' in case of adoption, including the dates you wish to take leave. (The dates can be varied by giving 28 days' notice, where reasonably practicable to do so)
- give your employer a completed self-certificate form. Please refer to [www.gov.uk](http://www.gov.uk) for the forms ([www.nidirect.gov.uk](http://www.nidirect.gov.uk) in Northern Ireland and [www.gov.ie](http://www.gov.ie) in the Irish Republic).

Republic of Ireland – There is no provision for statutory paternity pay however, you may be entitled to parental leave.

<sup>9</sup> Workplace (Health, Safety and Welfare) Regulations 1992 (the Workplace Regulations).

<sup>10</sup> England, Wales, Scotland and Northern Ireland.

## Key negotiating aims on paternity/maternity support leave

- **All** employees regardless of length of service, hours worked and employment status to be entitled to 2 weeks paternity/maternity support leave on full pay. Start by arguing for a percentage of average pay or a flat rate. This provision should apply to employees regardless of gender or sexual orientation. It can also apply to a grandparent who is a nominated carer.
- Maximum flexibility around when paternity leave can be taken – aim for any time within 1st year of birth with shorter notice periods
- Fathers or nominated carers should also be entitled to attend antenatal care with their partner or relative, on full pay
- A longer paternity leave with no service requirement
- All employees should be entitled to APL-style leave regardless of the employment status of their partner
- Flexibility in APL-style leave, to allow parents to have time off together at any time in the child's first 12 months
- Entitlement to special extended leave in cases of premature, disabled or multiple-births, partners with postnatal depression, or partners who die or are seriously incapacitated within the first year of the child's life

## c. New Adoptive parents<sup>11</sup>

### Adoption leave

Adoption rights extend to employees who adopt a child (under the age of 18). One adoptive parent is entitled to adoption leave. If you have a partner, he/she is entitled to paternity leave and pay (if they meet the criteria as outlined above). You are entitled to leave from the date your child starts living with you or up to 14 days before this date. Your partner may also be entitled to Shared Parental Leave and Pay if you have adopted your child on or after 5 April 2015.

Qualifying employees are entitled to 52 weeks' adoption leave made up of 26 weeks' **ordinary adoption leave** and 26 weeks' **additional adoption leave**. All adoptive parents are entitled to adoption leave, regardless of length of service or number of hours worked and regardless of the size of the employer. Whether this is paid or not depends on your level of earnings and length of service.

Since 5 April 2015, statutory adoption pay has been enhanced for the first six weeks to 90% of average earnings, followed by 33 weeks at the basic rate of £139.58pw for a further 33 weeks or 90% of salary, if that is less.

Before 5 April 2015, adoption leave would have been paid for 39 weeks at the basic rate only, which was then £138.18pw or 90% of average weekly earnings, if that was less.

As with maternity leave, 13 weeks' of the additional adoption leave.

The same protections against dismissal and detriment apply as with ordinary and additional maternity leave, above.

There is no extra entitlement for multiple adoptions.

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<sup>11</sup> England, Wales, Scotland and Northern Ireland.

To **be eligible** employees must:

- have adopted a newly placed child (for exceptions see below) through an approved adoption agency in the UK or overseas
- have worked continuously for their employer for 26 weeks prior to the notification of the child being placed
- notify their employers of their intention to take leave, and proposed dates, within seven days of being matched with a child. (The dates can be varied if the employee gives 28 days' notice)
- provide a copy of the 'matching certificate' from the adoption agency

Your employer must confirm within 28 days your leave start and end dates.

If you wish to return to work before the end of the adoption leave period, then you must give 8 weeks' notice.

**Since 5 April 2015**, adoption leave has become a "day one" right (previously this required 26 weeks' service). Also, the main adopter is able to take paid time off for up to five adoption appointments. The secondary adopter is entitled to take unpaid time off for up to two appointments. Some surrogate parents will become eligible for adoption leave as well.

If you are adopting from overseas, the conditions are the same except you must:

- sign the SC6 Form if you're adopting a child with your partner which confirms you're not taking paternity leave or pay;
- have 'official notification' (permission from a UK authority) that you can adopt from abroad; and
- tell your employer the following-
  - (1) the date of your 'official notification' and the expected date the child arrives in the UK (within 28 days of getting the notification);
  - (2) the actual date the child arrives in the UK (within 28 days of that date); and
  - (3) how much leave you want and when you want the leave to start (giving 28 days' notice)

You can work up to 10 keeping in touch days (KIT) during your adoption or additional paternity leave (APL).

### **Exceptions**

You don't qualify for Statutory Adoption Leave or Pay if you:

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a stepchild
- adopt a family member

If you're not eligible your employer must give you the SAP1 form explaining why you can't get statutory adoption pay. You may also be able to get support from your local council.

Republic of Ireland – You are entitled to 24 weeks adoption leave. You are also entitled to take 16 additional weeks unpaid adoption leave after your adoption leave ends. Your right to adoption leave means you have a right to a period of leave from your employment without pay. If you have enough PRSI contributions you may qualify for adoption benefit which is paid by the Department of Social Protection while you are on adoption leave.

### Key negotiating aims on adoption leave

- Paid time off to attend all pre-adoption appointments otherwise negotiate for flexibility to be allowed for adoptive parents to be able to use their pay and leave entitlement to cover pre-adoption meetings, appointments etc.
- Rights for foster parents
- Where maternity terms are better than adoption terms, aim for the policy to state that it will follow the maternity policy

## 3. Rights for all working parents and carers

### a. Parental leave<sup>11</sup>

Parents of all<sup>12</sup> children under 18 are entitled to 18 weeks (unpaid) parental leave, per child, up to their 18th birthday. Each parent is entitled to take 4 weeks per year for each child, unless other arrangements are agreed with the employer.

Parental leave should be taken in blocks of a week or multiples of a week, unless you have agreed a different arrangement with your employer, or your child is disabled.

Your terms and conditions and employment rights are protected during parental leave. You have the right to return to the same job if the leave is for 4 weeks or less, or otherwise to the same or similar job.

To **be eligible**, you:

- must have completed 1 years' continuous employment with their employer to qualify
- may need to provide evidence e.g. birth or adoption certificate
- may need to give 21 days' notice, though this may be varied
- must have or expect to have parental responsibility

### How to take leave

It is preferable for leave to be flexible especially regarding how much leave has to be taken at once.

<sup>11</sup> Republic of Ireland – Parents can take leave from employment in respect of certain children.

<sup>12</sup> From 5 April 2015, parental leave became available to parents of all children up to 18 years old, regardless of whether they are adopted or birth children, or whether they are disabled or not.

Where there is no agreement in place, the **'default'** scheme allows for you to take parental leave a week at a time, but if your child is on Disability Living Allowance (DLA) or Personal Independence Payment (PIP), you can take parental leave a day at a time.

The employer may postpone the requested leave for up to 6 months if the business would be 'particularly disrupted' by the leave at that time. But they cannot postpone the leave if you apply to take parental leave immediately after maternity/paternity/adoption leave OR if it means you would no longer qualify for parental leave.

### Key negotiating aims on parental leave

- Rights to parental leave to be awarded **from day one** of employment
- Parental leave to be allowed within 8 years of child's birth, or older
- Aim for full pay for parental leave, building up from a reduced rate (flat rate or percentage) – this should be as favourable as the maternity pay policy
- Parental leave to be available in blocks from a minimum of half a day (not one whole week), up to the full 13 weeks in one year
- It may be taken on a part-time basis, so working hours are reduced for a specific length of time, or start/finish times changed
- Parental leave to be available with no, or minimum notice
- Parental leave to be made available to all those with caring responsibilities including adult relatives and friends
- Contribution towards childcare costs through facilities, subsidised places or allowances. Where childcare vouchers are offered, this should be in addition to pay rather than as "salary sacrifice". If vouchers are taken in place of salary, at least aim to have them treated as notional salary for the purpose of pension contributions
- Employers should only postpone parental leave in exceptional circumstances – aim for a maximum postponement of 3 months

## b. Time off for dependants

All employees have the right to 'reasonable' (unpaid) time off work at short notice to help dependants in an emergency. You should give your employer as much notice as is possible of your leaving and return dates. You do not have to provide proof for the reasons of time off. A **dependant** could be a spouse, partner, child, parent, grandchild or someone who depends on you for care. It could also be anyone who relies on you for assistance in an emergency e.g. neighbours. Types of **emergencies** include illness, injury (including mental distress), accident, assault, childbirth, incidents at school, and breakdown in care arrangements. You are entitled to reasonable time off to deal with the emergency and it depends on the situation.

### Key negotiating aims on time off for dependants

- A minimum of 10+ days paid family leave with wide scope and definition of caring responsibilities
- Existing rights to paid bereavement, compassionate and/or paternity leave must not be undermined so keep time off arrangements separate unless the overall package of rights improves

## c. Flexible working<sup>13</sup>

All employees now have the right to request flexible working, not just those who care for dependants, provided you have at least 26 weeks' service – for example, a change to hours, times of work, to allow working from home, flexi-time or term time working.

You have the right to make one application per year for flexible working.

Your employer must consider this application seriously, in a 'reasonable manner' and give good reasons if they reject it. Examples of dealing with requests in a 'reasonable manner' would include assessing the advantages and disadvantages of the application, holding a meeting with you to discuss the request and offering an appeal process.

Your employer can refuse an application if they have a good business reason for doing so, but there are legal protections if your employer doesn't handle a request in a reasonable manner, wrongly treats your application as withdrawn or rejects an application based on incorrect facts, an employment tribunal claim should be considered.

Some employees have also successfully used the Equality Act 2010<sup>14</sup> to argue that refusal to allow part time or flexible working hours, for example, in the case of London Underground v Edwards (1995/1998) is indirect sex discrimination as it affects women much more than men. If you are thinking of using the Equality Act 2010 you should contact your local union representative or official for advice.

To **be eligible** you must:

- have been continuously employed by the same employer for at least 26 weeks; and
- not have made a previous application in the last 12 months

You are protected against dismissal, victimisation or any other detriment for requesting flexible working or because you helped someone else to do so.

### **Procedure**

Apply in writing. Your employer must then meet with you to discuss. You may take a colleague to the meeting with you (we suggest your shop steward/workplace rep).

Your employer must then write to you within 3 months (or longer if agreed with you) with their response. If your request is agreed, your contractual terms and conditions has to be changed accordingly. If your request is refused, your employer must write to you with their business reasons for the refusal. You no longer have a statutory right to appeal but being offered an appeals process shows that your employer is handling the request in a 'reasonable manner'. To appeal you must follow your appeal's procedures.

You may complain to an Employment Tribunal if your employer:-

- didn't handle the request in a 'reasonable manner'
- wrongly treated your application as withdrawn
- dismissed or treated you poorly because of your flexible working request, e.g. refused a promotion or pay rise
- rejected an application based on incorrect facts

You cannot complain to an Employment Tribunal only because your flexible working request was rejected.

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<sup>13</sup> England, Wales, Scotland and Northern Ireland.

<sup>14</sup> Sex Discrimination (Northern Ireland) Order 1976.

**NOTE:** If accepted, the change in hours becomes a permanent change to the employee's contract unless it is agreed otherwise with the employer (e.g. temporary change or a trial period). Therefore, parents need to think carefully before making a request under the "right to request flexible working" regulations.

Republic of Ireland – There is no statutory provision for a right to flexible working however, a code of practice on access to part-time working was introduced in 2006 as best practice for employers to have policies on improving access to part-time work.

### Key negotiating aims on flexible working

- The right to flexible working rather than the right to request it
- Right to request should extend to a broader definition
- A policy should make a commitment to consider the request positively, and only refuse in exceptional circumstances
- Employers to consider request for flexible working more than once a year
- When a request is accepted it should not become a permanent change unless it is specifically asked by the employee

## d. Rights of carers

Caring for older relatives and dependents is increasingly part of many workers' lives. Rights for carers have been introduced and the union is campaigning and negotiating to build on these. Carers of adults have the legal right to request flexible working (which has now been extended to all employees with the requisite service) and to time off in emergencies.

- **Right to request Flexible working** – if you are an employee with 26 weeks continuous employment at the date you make an application and you have not made a previous application in the last 12 months (as above).
- **The right to time off in emergencies** – also known as time off for dependants.
  1. A dependant could be mother, father, son, daughter, parent or anyone who lives with you or someone who relies on you for assistance if they fall ill or are injured
  2. An emergency could be:
    - o A disruption or breakdown in care arrangements
    - o The death of a dependant
    - o If a dependant falls ill or has been assaulted
    - o To make longer term arrangements for a dependant who is ill or injured (but not to provide long term care yourself)

Republic of Ireland – Carer's benefit is a payment made to ensure that people who leave the workforce to care for a person(s) in need of full time care and attention. You can obtain a carer's benefit for a total period of 104 weeks for each person being cared for.



### Key negotiating aims for carers

- Policy for carers to cover all employees with a broad definition of dependents. Currently those people who care for friends or neighbours or some relatives are not included. The legal definition can exclude vulnerable groups, including migrant workers who may have no relatives in the UK and the growing number of men estranged from their families after divorce. Lesbian and gay people may also lose out, as they are more likely than other communities to rely on friends rather than blood relatives for mutual support and care.
- Carers to be eligible for time off for dependents and parental/carers leave on terms which are as good as for parents of young children
- 13 weeks leave on full pay at short notice. Start with a minimum of 10 days paid leave
- Right to change your working hours e.g. right to transfer off shift work and to refuse overtime

## e. Tax credits

There are three main types of financial support available for working people with children. Both are claimed on a single form available from the Inland Revenue.

### Child tax credit

To be eligible for child tax credit you must be responsible for a child under 16 or under 20 and in approved education or training. Child tax credit is payable directly to the main carer (usually the mother). You don't need to be working to claim Child Tax Credit. You get money for each child that qualifies and it would not affect your Child Benefit. Only one household can get Child Tax Credit for a child.

You may get **disabled-child element** of Child Tax Credit if your child gets DLA or is registered blind (or was within 28 weeks of your tax credits claim) or you may get severely-disabled-child element if your child gets the highest rate Care component of DLA. You still qualify if DLA stops because the child goes into hospital.

You can get tax credit for 20 weeks if your child leaves education or training before they're 18 and:

- registers with their local careers service, Connexions or local authority support service (or the Education and Library Board in Northern Ireland or similar careers organisation in the European Economic Area, Norway, Switzerland, Iceland or Liechtenstein)
- joins the Armed Forces

Your child must be 16 or 17, work less than 24 hours a week and not get certain benefits (e.g. Income Support).

If your baby is born but dies afterwards, please refer to the stillbirth/miscarriage/termination section.

### Working tax credit

Working tax credit is paid to parents earning lower incomes (and also to some single people without children and disabled people). It tops up your income to a higher level depending on your age, hours of work, income and other circumstances.

If your baby is born but dies afterwards, please refer to the stillbirth/miscarriage/termination section.

## Working tax credit (childcare element)

You could get help with your childcare costs while you're working. This could be up to £175pw (from April 2015, previously £175pw) for 1 child and up to £300pw for 2 children or more. The amount depends on your income and how often you pay for childcare. Costs are available to families who pay registered or approved childcare, work the right number of hours for childcare tax credits. This must be claimed as part of the working tax credit claim. You can get these tax credits until the Saturday after 1 September following your child's 15th birthday (16th if they're disabled).

You can claim for childcare provided by a relative if they're a registered childminder and they care for your child outside your home. In Wales and Northern Ireland, you can claim for childcare provided by a relative who's approved under a home childcare providers scheme. However, you can only claim if they care for your child outside your home and they care for at least one other child that isn't related to you. To see if you are entitled please check with the Inland Revenue.

Republic of Ireland – A tax credit system does not apply. A child benefit previously known as Children's Allowance is payable to the parents or guardians of children under 16 years or under 18 years if the child is in full-time education.

## f. Rights for part time, temporary, agency and contract workers

**Part time workers**<sup>15</sup> are entitled to all the benefits paid to full time workers. They are eligible for full statutory maternity, paternity and adoption leave and pay providing they meet the other criteria.

Agency and temporary staff may be entitled to SMP and other statutory payments from their agency if they have worked for their agency continuously for 26 weeks (not necessarily full time) before the 15th week before the baby is due. Entitlement to other family friendly rights depends on whether the worker has the status of "employee" or of "worker". Usually, agency and temporary workers do not count as "employees" and therefore they have no automatic right of entitlement to maternity, paternity or adoption leave, parental leave, paid time off for antenatal care, emergency time off for dependents, to be suspended on full pay or given alternative employment on health and safety grounds, or to request flexible working.

As an **agency worker**<sup>16</sup>, you may be entitled to statutory maternity pay but you can't get statutory maternity leave.

Your hirer will need to make an adjustment if it is reasonable. If it is not reasonable then your agency should offer you suitable alternative work, if available. You should be paid at least the same rate until the end of the assignment. If there is no suitable work the agency must pay you at the same rate for the length of the terminated assignment. If the end date is not known, the agency must pay you for what would have been the likely duration of the terminated assignment.

After 12 weeks in the same job you can get paid time off including travel time to go to antenatal appointments or classes if you cannot reasonably arrange them outside working hours.

If you are discriminated on grounds of pregnancy you might be able to take your case to an Employment Tribunal.

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<sup>15</sup> England, Wales, Scotland and Northern Ireland.

<sup>16</sup> England, Wales, Scotland and Northern Ireland.

It is worth checking the contract with the agency and the policies of the employer as these may give better rights or they may (more unusually) give the worker the status of “employee” of the agency.

Occasionally someone in this situation might be able to rely on the Equality Act 2010<sup>17</sup> to get family friendly rights, particularly around the area of health and safety, as this law covers all workers.

Workers on fixed term contracts generally do count as “employees” and are therefore entitled to all the rights in this guide. However, the length of the contract and the timing of maternity leave would have an impact on rights and advice needs to be obtained.

Workers on zero hour contracts are covered by some employment legislation including the Equality Act 2010<sup>18</sup> but are not covered by others, notably those relating to maternity and paternity leave and pay.

Republic of Ireland – Employees on fixed term contracts have broadly similar rights to those on open ended contracts. The majority of employees work under open ended contracts of employment. Those employed on fixed term or specified purpose contracts are protected by Protection of Employees (Fixed Term) Act 2003 however, this legislation does not apply to agency workers placed by a temporary work agency.

There is additional legal protection for agency workers however they do not have all the same employment rights as permanent workers.

## **g. Parents in surrogacy arrangements**

If you are having a child through surrogacy then the surrogate will be the legal mother of any child they carry. The woman who gives birth is always treated as the mother in UK law, and will have the maternity rights. She has the right to keep the child – even if they are not genetically related. However, parenthood can be transferred by parental order or adoption.

If neither you nor your partner is related to the child, or you’re single, adoption is the only way you can become the child’s legal parent.

You or your partner won’t be entitled to maternity leave, paternity leave or statutory adoption leave if you use a surrogate. However, you could qualify for parental leave if you have worked for your employer for at least a year and you have an Adoption Order or you are named on the child’s birth certificate and you have or expect to have parental responsibility.

Since 5th April 2015, parents in a surrogacy arrangement who are entitled to and intend to apply for a Parental Order under the Human Embryology and Fertilisation Act 2008 have been able to take adoption, paternity leave and pay (birth and adoption), if each parent is eligible (see above).

For babies due on or after 5th April 2015, eligible parents will also be entitled to take shared parental leave for a year from the birth.

## **h. Egg, sperm and embryo donation**

If you’re an egg, sperm or embryo donor, you could be the legal parent of any child born from your donation. This depends on whether or not you have donated through a Human Fertilisation and Embryology Authority (HFEA) licensed clinic.

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<sup>17</sup> Sex Discrimination (Northern Ireland) Order 1976.

<sup>18</sup> Sex Discrimination (Northern Ireland) Order 1976.

Donation through a licensed clinic would mean that you will not be the legal parent and therefore have no legal obligation to any child(ren) born from your donation. However, using an unlicensed clinic to donate sperm will make you the legal father.

Under UK law, when you give birth to a child you are considered to be the legal mother, even if you have used donated eggs or embryos.

If you receive donated eggs, sperm or embryos through a licensed clinic then you will be the legal parent of the child(ren).

You do not need to tell your employer that you are donating but as you need to take time-off work you might consider it, depending on how sympathetic your employer is.

For more information please visit HFEA website.

## 4. Arguments for family rights and examples of good practice

Family rights have only advanced because of campaigning by trade unions and other organisations. Although family rights were transformed by the previous Labour government further changes are essential and Unite will continue to be part of this campaign.

Whilst there have been positive developments, there are still areas that must be improved, particularly:

- To get workers the maximum benefits from their first day of employment
- To get rights for all workers particularly those working on zero hours, temporary, fixed term, bogus employment, precarious work and other casualised work.
- To get paid leave, instead of unpaid leave
- To get leave paid at a higher rate e.g. Living wage
- To cover as broad a possible range of family relationships/type of dependents (including care for other relatives or friends who do not live at the same address as you)
- To allow for more paid leave and/flexibility in special circumstances such as disabled children or parents, stillbirths, miscarriages, terminations, fertility treatment and multiple births
- To have shorter notice requirements and fewer restrictions on the timing and “blocks” of leave in all circumstances

The introduction of new laws also gives a good opportunity for Unite representatives to negotiate enhanced rights, whether or not the employer already provides for more than the minimum legal rights. Negotiators should first of all find out from members what their priorities are.

Even if there does not seem to be many problems at work relating to family friendly policies, they should still be on the bargaining agenda. It is a good idea to raise issues with employers before problems arise, as they may well be more willing to agree good policies when there is no immediate prospect of having to implement them (for example if there are currently few women of childbearing age in the workplace).

It is especially important to include family friendly policies as part of any negotiation where the employer is seeking to change working hours, perhaps because they are hoping to provide a more round-the-clock service. It is always important to include at least one family friendly aim each time there are negotiations on wages or conditions, and negotiate towards improvements in small steps if necessary.

## The case for family friendly rights:

The benefits to employees are clear-

- More time and support for parents to bring up children, particularly whilst they are young/still breastfed
- Less stress and anxiety about childcare arrangements breaking down – particularly important, given that there is still a lack of adequate childcare provision in many areas
- More money to bring up children – which means better chances for those children
- Family friendly policies may be negotiated separately, or as part of wider work-life balance policies which can assist all workers, not just those with families – for example to balance working with the need for a flexible pre-retirement period or with pursuing further study

Employers are increasingly recognising the benefits to themselves from implementing family friendly policies, including:

- Improved loyalty and commitment from workers
- Improved motivation and productivity
- Improved staff retention /lower turnover – leading to cost savings. The CIPD estimates that recruiting new employees costs on average around £4,500
- Lower rates of absenteeism and easier to manage sickness policies
- Improved corporate image and recruitment and a workforce that is more reflective of our diverse society and its customer base
- More equality of opportunity so that staff can be retained and promoted according to merit, not caring responsibilities

## Cost

Employers are reimbursed some family friendly costs, for example, they are reimbursed at least 92% of the costs of Statutory Maternity and Paternity Pay. Small employers are also able to claim back all the SMP plus some compensation (103%). It could be argued that this money should be put back in to further improving provisions for parents.

Actual costs of many measures (e.g. shared parental leave, paternity and adoption leave) will be low – for example, TUC has estimated that two in five new fathers would not qualify for shared parental leave and half of new dads do not take their full entitlement of two weeks statutory paternity leave, these increase to three in four for low income dads.

## Key negotiating aims

When negotiating enhanced family rights, negotiators should aim to get the employer to agree to at least some of the recommendations in the key negotiating aims boxes in each section of this guide. Points in each section are listed roughly in order of priority (the number one priority being to ensure that all employees are in a position to benefit from the rights, from day one of employment).

## Examples of good practice

Unite has been negotiating for maternity/paternity/parental rights for many years. The following are some good practices and policies in our organised workplaces:

### Maternity – winning for Unite members

**Ford, Rolls Royce Motor Cars, Jaguar/Land Rover** there are 52 weeks maternity leave at full basic pay.

**Mondelez** workers receive 18 weeks maternity leave on full pay.

**Save the Children Fund** workers are entitled to 21 weeks maternity leave on full pay.

**Eaton Electric** workers receive 26 weeks full pay maternity leave.

**Bank of England** first 18 weeks are on full pay and then workers receive 26 weeks of maternity leave on full pay.

**BP Oil Drivers** (Logistics contract) workers receive 16 weeks on full pay from day one.

**First Capital Connect** workers receive 12 weeks on full pay.

**Meggitt Aircraft Braking Systems** workers receive 20 weeks on full pay.

**Passenger Transport Executives** first there are 6 weeks at 90% and then 12 weeks at 50% plus SMP.

**East Midlands Airport** workers first receive 6 weeks at 90% and 20 weeks at 50% plus SMP

**Usborne Publishing** first 10 weeks on full pay and then 10 weeks at 50% including SMP

### **Paternity – winning for Unite members**

**Michelin workers** receive 10 days leave on full pay

**Leyland Trucks** there are 5 days leave at 100%

**Air France** workers receive 5 days leave on full pay

**NJIC Knitting Industries** workers receive 10 days on full pay

**Greater Anglia (Maintenance)** there are 10 days at 100%

**Sainsbury's Retail** workers receive 10 days on full pay

**Greencore (Wisbech, Cambs)** first there are 5 days at 100% followed by 5 days statutory pay and a baby bonus of £125.

**Age UK** workers receive 10 days leave on full pay.

**Bank of England** workers receive 10 days paternity leave on full pay and if the mother takes less than 26 weeks' leave, father will get 100% paid leave for any unused weeks. The remaining 13 weeks are paid at the statutory rate.

**West Berkshire Council** workers receive 5 days at 100% and the Maternity Support Leave of one week on normal pay may be granted to 'nominated carer' for the mother, if mother not supported by a partner or other person at time of birth.

**Devro** (Scotland) after 1 year service the 10 day paternity leave is paid at full pay + shift pay. For workers with under a year's service, this is paid at £150 per week.

**City & Guilds of London Institute** workers receive 20 days paternity leave at 100%.

**The Argus** (Newsquest Media Group) the first 2 weeks are fully paid and the next 8 days are paid at 90% of pay.

**BBC** (staff) workers receive 10 days on full pay and additionally, all full-time (pro-rata for part-timers) employees are eligible to take up to and extra 5 days Partner Support Leave when their partner gives birth.

### **Shared parental leave – winning for Unite members**

**Lloyds banking group** – workers receive full salary for seven weeks then half pay for 20 weeks then 12 weeks statutory maternity pay – available for sharing between parents.

**Unilever** – workers receive 100% pay for the first 26 weeks and then enhanced pay for up to 39 weeks depending on working hours on return from leave.

**Barclays** – enhanced shared parental pay for up to 6 weeks at normal pay which will be reduced by any enhanced Barclays maternity, adoption or paternity pay already received.

## 5. Further information

Further advice can be obtained from your Regional Women's & Equalities Organiser.

**North West**  
0161848 0909

**West Midlands**  
0121553 6051

**South West**  
0117 923 0555

**South East**  
02392 824 514

**Scotland**  
0141 404 5424

**North East/Yorkshire and Humberside**  
0113 236 4830

**East Midlands**  
01332 548400

**London/Eastern**  
020 8800 4281

**Ireland**  
Belfast 028 90 232 381  
Dublin +353 (0) 1873 4577

**Wales**  
02920 394521

The following organisations can advise you further on your rights to family friendly working:

- **Unite Equalities**, can provide advice and also copies of the Model Agreement on Family Rights and the Women's Health, Safety and Well-Being Guide – 020 7611 2500
- **TUC Know your rights** – ([www.tuc.org.uk](http://www.tuc.org.uk))
- **Equality and Human Rights Commission** – 020 7832 7800 ([www.equalityhumanrights.com](http://www.equalityhumanrights.com))
- **Department for Business, Innovation and Skills** – ([www.gov.uk/government/organisations/department-for-business-innovation-skills](http://www.gov.uk/government/organisations/department-for-business-innovation-skills))
- **Arbitration, Conciliation and Advisory Service Helpline** – 0300 123 1100 ([www.acas.org.uk](http://www.acas.org.uk))
- **Working Families** – 020 7253 7243 ([www.workingfamilies.org.uk](http://www.workingfamilies.org.uk))

The following organisations can also advise on specific issues:

- **Tax Credit** – 0345 300 3900, Textphone: 0345 300 3909 ([www.inlandrevenue.gov.uk/taxcredits](http://www.inlandrevenue.gov.uk/taxcredits))
- **Health & Safety Executive** – 0300 003 1747 ([www.hse.gov.uk](http://www.hse.gov.uk))
- **Family and Childcare Trust** (for childcare issues) – 020 7940 7510 ([www.familyandchildcaretrust.org](http://www.familyandchildcaretrust.org))
- **Labour Research Department** (help for negotiating) – 020 7928 3649 ([www.lrd.org.uk](http://www.lrd.org.uk))
- **Broken Rainbow** (provides support and advice for LGBT people who experience domestic violence) – 0800 999 5428 ([www.brokenrainbow.org.uk](http://www.brokenrainbow.org.uk))
- **Abortion Rights** – 020 7923 9792 ([www.abortionrights.org.uk](http://www.abortionrights.org.uk))
- **Maternity Action** – 020 7253 2288 ([www.maternityaction.org.uk](http://www.maternityaction.org.uk))
- **Bliss** (provides advice and information for parents who have premature or sick babies) – 020 7378 1122, Helpline 0500 618140/Text Relay 018001 0500 618140 ([bliss.ritdns.com](http://bliss.ritdns.com))

Legal advice on non-work-related issues can also be obtained from Unite 24 hour legal helpline on 0800 709 007.

If you are not already a member of the Unite and would like to join, please call 0207 611 2500 for more information or visit Unite's website [www.unitetheunion.org](http://www.unitetheunion.org).

## 6. Appendices

### Appendix 1 European comparisons

#### MATERNITY LEAVE PROVISIONS IN THE EU

Country	Explanation	Duration	Payment
Bulgaria	45 days obligatory	58.57 weeks	90%
Poland	Obligatory 14 weeks	26 or 52 weeks	Either 100% of full pay for 26 weeks or 80% for 52 weeks
Greece		17 weeks (8 weeks before the birth)	100%
Austria	Obligatory	16 weeks (8 weeks before the birth)	100%
France	Obligatory	16 weeks	100% (a ceiling applies in the private sector)
Italy	Obligatory	20 weeks (at least 4 weeks before the birth)	85%, 80% for home helps, self-employed workers and agricultural temporary workers
Germany	Obligatory 8 weeks after the birth	14 weeks	100%
Lithuania		18 weeks (10 weeks before the birth)	100% up to a ceiling
Luxembourg	Obligatory	16 weeks (8 weeks before the birth)	100% up to a ceiling
The Netherlands	Obligatory	16 weeks (4-6 weeks before the birth)	100% up to a ceiling
Malta		18 weeks	100% for 14 weeks, the rest at a flat rate
Portugal	Obligatory 45 days following the birth	120 days (150 if shared)	100% for 120 days (150 if shared) or 80% for 150 days (83% for 180 days if shared)
Slovakia	Obligatory	34 weeks (6-8 weeks before the birth)	65% up to a ceiling
Slovenia	Obligatory 15 days	105 days (4 weeks before the birth)	100% up to a ceiling
Spain	Obligatory 6 weeks	16 weeks	100% up to a ceiling
UK	Obligatory 2 weeks after the birth	52 weeks (50 weeks can be shared)	90% – 6 weeks, flat rate for 33 weeks or 90% of salary if that is less (37 weeks if shared)

*Maternity, paternity and parental leave: Data related to duration and compensation rates in the European Union – study for FEMM Committee*



## PATERNITY LEAVE PROVISIONS IN THE EU

Country	Explanation	Duration	Payment
Slovenia		90 days	100% of full pay up to a ceiling, for 15 days, 75 on a flat-rate
Lithuania		28 days	100% up to a ceiling
Portugal	10 are obligatory in the first month	20 days	100%
Belgium	3 days are obligatory	10 days	100% for 3 days, 82% for 7 days
Bulgaria		15 days	90%
Denmark	To be taken during the maternity leave	10 days	100%
Estonia		10 days	100%
Finland	18 days can be taken during maternity leave	54 days	75% up to a ceiling for 30 days if taken after maternity and parental leave; 70% up to a ceiling for 24 days if it is taken during leave
France	To be taken in the first 4 months	11 days	100% (up to a ceiling in the private sector)
Hungary	To be taken in the first 2 months	5 days	100%
Poland		2 weeks	100%
Spain		11 days	100% up to a ceiling
Sweden		10 days	80% up to a ceiling
<b>UK</b>		<b>2 weeks</b>	<b>Flat-rate or 90% of average weekly earnings if that is less</b>

*Maternity, paternity and parental leave: Data related to duration and compensation rates in the European Union – study for FEMM Committee*

## PARENTAL LEAVE PROVISIONS IN THE EU

Country	Duration	Payment
Czech Republic	156 weeks	70% of full pay
Estonia	156 weeks	100% up to a ceiling for 435 days, then a flat-rate until the 3rd birthday
Finland	158 days	75% up to a ceiling for 30 days, then 70% up to a ceiling
Denmark	32 weeks/parent	100%
France	156 weeks until the 3rd birthday	Flat rate per household
Bulgaria	26 weeks	Paid (90% of previous earnings)
Croatia	6 months, up to 3 months for fathers	100%, 50% after the first 6 months
Germany	156 weeks until the child is 3	67% for the first 12 months, can be extended to 14
Lithuania	156 weeks for under 3s	1) 100% up to a ceiling until 1st birthday 2) 70% up to a ceiling until 1st birthday and 40% until the 2nd one
Latvia	78 weeks/parent	70%, available only to one parent
Greece	1) 4 months per parent – private sector 2) 2 years per parent – public sector	1) Unpaid 2) Unpaid (3 months 100% when there are three or more children)
Italy	1) 6 months per parent – private sector maximum of 10 months	1) 30% for under 3s unless low paid 2) Public sector-100% for the first 30 days
Poland	34 months	Flat rate payment
Romania	Two options with a monthly allowance until the 2nd birthday	85% up to ceiling and incentive pay for returners
Sweden	480 days per family	77.6% for 390 days, 90 days at a flat rate
UK	<b>18 weeks per parent per child</b>	<b>Unpaid</b>

*Maternity, paternity and parental leave: Data related to duration and compensation rates in the European Union – study for FEMM Committee*

## COUNTRIES WITH WELL PAID, FATHER ONLY LEAVE IN EUROPE

Country	Leave (weeks)	Payment	Take up by fathers
Denmark	34 <sup>17</sup>	100% of full earnings (ceiling applies)	100% of full pay up to a ceiling, for 15 days, 75 on a flat-rate
Iceland	13 <sup>18</sup>	80% (ceiling applies)	100% up to a ceiling
Norway	12	100% (ceiling applies)	100%
Sweden	10 <sup>19</sup>	80% (ceiling applies)	100% for 3 days, 82% for 7 days
Finland	9	70-75% (ceiling applies)	90%
Portugal	4	100%	100%
Belgium	2	100% for first 3 days, then 82% (ceiling applies)	100%
Estonia	2	100% (ceiling applies)	In 2008, 50% took leave (up from 14% when unpaid in 2006 and 2007). In 2013 after payment was re-introduced, 38% took leave.
France	2	100% (ceiling applies)	62%
Poland	2	100%	17% in 2011 a year after it was introduced
Slovenia	2	90% (ceiling applies) and 100% for low paid	80% plus 20% take additional fathers' parental leave days that are paid at low flat rate
Spain	2	100%	74% of eligible fathers
Greece	0.3 <sup>20</sup>	100%	n/a

Adapted from Moss, P. (2014) *International Review of Leave Policies and Research 2014*.  
[http://www.leavenetwork.org/lp\\_and\\_r\\_reportss/](http://www.leavenetwork.org/lp_and_r_reportss/)

<sup>17</sup> Two weeks' paternity leave plus fathers have an entitlement to 32 weeks' parental leave, separate from mothers' entitlement to 32 weeks' parental leave. However, the pay for the parental leave is a family entitlement to 32 weeks' full pay. So the right to 32 weeks' well paid leave for fathers is a mix of an individual and shared entitlement. Denmark could therefore come top or much further down the table if the parental leave was discounted because it isn't strictly a 'father only' entitlement.

<sup>18</sup> Entitlement is to 3 months' leave which has been converted into 13 weeks

<sup>19</sup> Entitlement to 10 days' paternity leave and 60 days' parental leave, this has been converted into a total of 10 weeks' leave based on a calendar week

<sup>20</sup> Entitlement is 2 days' leave converted to 0.3 calendar weeks

## FINANCIAL INCENTIVES FOR FATHERS TO TAKE SHARED LEAVE

Country	Incentive	Take up by fathers
Sweden	Tax free 'Gender Equality Bonus' of €5 for each day they use the parental leave equally	In 2012, 56% of parents were eligible for the bonus
Italy	Families get an extra month of parental leave (paid at 30% of earnings) if father takes at least 3 months	11% of parental leave users are men.
Germany	Family entitlement to 12 months' parental leave paid at 67% of earnings and if fathers take at least 2 months' leave the family gets a bonus of extra 2 months' paid leave	29.3% of fathers now take at least 2 months of the family entitlement. Before the financial incentives were introduced only 3.3% of fathers took leave.
France	Increased financial payment if both parents take some leave	n/a
Croatia	Transferable parental leave fully paid for 6 months but if both parents use then payments is for 8 months	0.3% of fathers take any of the leave and account for only 2% of leave that is taken.
Austria	Extra bonus month of childcare benefit if both parents apply to take some of the family entitlement to paid parental leave	n/a

Adapted from Moss, P. (2014) *International Review of Leave Policies and Research 2014*.  
[http://www.leavenetwork.org/lp\\_and\\_r\\_reportss/](http://www.leavenetwork.org/lp_and_r_reportss/)

## Appendix 2

# Giving notice for maternity leave and pay

### Sample letter – giving notice for maternity leave and pay

*To be sent to your employer no later than the end of the 15th week before the week in which the baby is due.*

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: notice for maternity leave and pay – [insert your National Insurance Number]**

I am writing to inform you that I am pregnant and wish to take maternity leave.

My expected due date is [insert the date].

I have enclosed my MAT B1 certificate which confirms my due date.

**[OR – I will provide you with my MAT B1 certificate signed by my doctor or midwife which confirms my due date, when I receive it].**

**[I would like to take (insert the number) days'/weeks' annual leave from [insert the date] to [insert the date], and then start my maternity leave and pay on [insert the date].]**

I qualify for 52 weeks' maternity leave and intend to start my maternity leave on [enter date]. If I want to change this date, I will give you at least 28 days' notice.

Please let me know if I qualify for maternity pay and the amount I will receive. If I am not entitled to SMP, please send me the SMP1 form so that I can claim Maternity Allowance.

I intend to return to work on [insert the date]. However, I understand that you will write to me to confirm the date that I am due back. If I want to change the date of my return to work, I understand that I must give you at least eight weeks' notice.

I look forward to hearing from you.

Yours sincerely

[insert signature]

[insert your name]

## Appendix 3

# Pregnancy and health and safety

### Sample letter – pregnancy and health and safety

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: Pregnancy risk assessment – [insert your National Insurance Number]**

I am writing to confirm that I am pregnant and my baby is due on the **[insert the date]**.

I understand that as I have now informed you of my pregnancy I have the right to a personal and specific risk assessment as set out in the Management of Health and Safety at Work Regulations 1999.

I also understand that you should regularly review my initial assessment as my pregnancy progresses, to take into account possible risks that may occur during the different stages of my pregnancy.

I would like to ask you to arrange a meeting with myself **[and my union representative – if you have one]** as soon as possible to conduct a risk assessment.

Looking forward to hearing from you.

Yours sincerely

**[insert signature]**

**[insert your name]**

## Appendix 4

# Changing return date of maternity leave

### Sample letter – changing return date of maternity leave

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: changing return date of maternity leave – [insert your National Insurance Number]**

As per our previous correspondence prior to starting my maternity leave I informed you that I would return on **[insert the date]**.

However, I want to now change my return date to **[insert the date]**. **(OR, I have decided that I will take all my 52 weeks maternity leave and my return date will now be [insert the date].)**

I look forward to hearing from you with confirmation of the above.

Yours sincerely

**[insert signature]**

**[insert your name]**

## Appendix 5

# Giving notice for adoption leave and pay

### Sample letter – giving notice for adoption leave and pay

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: notice for adoption leave and pay – [insert your National Insurance Number]**

I am writing to inform you that I intend to take adoption leave and claim my statutory adoption pay.

I was matched for adoption on [insert the date] and I am expecting [insert the name of the child] to be placed with me on [insert the date].

I have enclosed/attached a copy of my matching certificate which informs you of the adoption agency's name and address, my name and address, and confirms the date our child is expected to be placed with us and the date I was informed about this.

**[I would like to take [insert the number] days'/weeks' annual leave from [insert the date] to [insert the date], and then start my adoption leave and pay on [insert the date].]**

I qualify for 52 weeks' adoption leave and intend to start this leave on [insert the date]. If I want to change this date, I will give you at least 28 days' notice.

Please let me know if I qualify for adoption pay and the amount I will receive. If I am not entitled to SAP, please send me the SAP1 form.

I intend to return to work on [insert the date]. However, I understand that you will write to me to confirm the date that I am due back. If I want to change the date of my return to work, I understand that I must give you at least eight weeks' notice.

I look forward to hearing from you.

Yours sincerely

[insert signature]

[insert your name]



## Appendix 6

# Notification of paternity leave

### Sample letter – notification of paternity leave

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: notification of paternity leave –[insert your National Insurance Number]**

My [wife/partner] is expecting a baby and I will have joint responsibility for the upbringing of the child.

I'm applying to take paternity leave to support my [wife/partner] and care for our child.

The expected date of birth of our baby is [insert date].

**[I intend to start my paternity leave the day my baby is born, whenever this occurs, and to receive my paternity pay from this date].**

**OR**

**[I intend to take [one week's/two weeks'] paternity leave from [insert the date] to [insert the date].]**

I look forward to hearing from you with confirmation of the above.

Yours sincerely

[insert signature]

[insert your name]

## Appendix 7

# Notification to change the start date of paternity leave

### Sample letter – notification to change the start date of paternity leave

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: notification to change the start date of paternity leave – [insert your National Insurance Number]**

I am writing to inform you that though I previously notified you that I wished to take **[one week's/two weeks']** paternity leave from **[insert the date]** to **[insert the date]**.

I now wish to vary these arrangements. Instead of the above, I would like to take [one week's/two weeks'] paternity leave from [insert the date] to [insert the date].

**[The expected date of birth of our baby is [insert the date].]**

**OR**

**[The matching date for the adoption of our child is [insert the date] and I am expecting our child to be placed with us on [insert the date].]**

I look forward to hearing from you with confirmation of the above.

Yours sincerely

**[insert signature]**

**[insert your name]**

## Appendix 8

# Notification of breastfeeding

### Sample letter – notification of breastfeeding

*You will need to talk to your employer about where you can express milk and when.  
Where you express your breastmilk will depend on where you work and where there is a fridge  
available for the safe storage of that expressed milk.*

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: notification of breastfeeding – [insert your National Insurance Number]**

I am writing to inform you that at the time I return to work I will be breastfeeding my baby.

**[If your job involves risks such as working with dangerous substances, excessive stress or doing long hours, then it might help to back up your own letter with a letter from your doctor or Health Visitor confirming that your working arrangements are putting your ability to breastfeed at risk and therefore the health of your baby].**

It would be helpful to discuss where and when I would be able to express milk. Also, the availability of a fridge for the safe storage of expressed milk.

I look forward to hearing from you with confirmation of the above.

Yours sincerely

[insert signature]

[insert your name]

## Appendix 9

# Notification of parental leave

### Sample letter – notification of parental leave

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: notification of parental leave – [insert your National Insurance Number]**

I am writing to inform you that I will be taking [insert the number of weeks or days] weeks'/days' parental leave.

My leave will begin on [insert the date] and will end on [insert the date].

The leave requested relates to my child due on [insert the date] **OR** born on [insert the date] **OR** adopted on [insert the date] [and who has been awarded disability living allowance/PIP, if applicable].

**[I have enclosed/attached a copy of the birth certificate/adoption papers].**

I look forward to hearing from you with confirmation of the above.

Yours sincerely

[insert signature]

[insert your name]

## Appendix 10

# Requesting flexible working

### Sample letter – requesting flexible working

[Your name]

[Address]

[Date]

[Employer's name]

[Address]

Dear [name of HR contact/manager]

**Re: requesting flexible working – [insert your National Insurance Number]**

I am making this request under section 80F Employment Rights Act 1996.

**[I have not previously made a request under section 80F Employment Rights Act 1996].**

**OR**

**[I have previously made a request under section 80F Employment Rights Act 1996 on [Date].]**

My current working pattern is [insert your working pattern] (note – there is no requirement to explain your current working pattern but it might be helpful to do so). I would like my new working pattern to be [insert the working pattern you are requesting]

I think the effects the new pattern would have on the business would be [insert the effect you think the requested change would have on your employer].

I think these effects could be dealt with by [insert how, in your opinion, any such effect might be dealt with].

I am making this request in order to [insert your reason] (note – while there is no requirement to do so, the ACAS guidance suggests that employees should state if their request is made in relation to the Equality Act 2010. It may help an employer decide your application if they understand the reasons behind it.)

I would like the new working pattern to come into force on [insert the date] for [insert the duration, if applicable] (note – this is a permanent change to your terms and conditions unless agreed otherwise).

I look forward to hearing from you.

Yours sincerely

[insert signature]

[insert your name]







# Equality and family rights

